

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARC ANTHONY BENCIVENGA,

No. C 11-04128 SI

**Plaintiff,**

**ORDER RE: ABANDONMENT OF  
CLAIM BY BANKRUPTCY TRUSTEE**

V.

US BANK, NATIONAL ASSOCIATION, as  
Trustee of GSAA HOME EQUITY TRUST,  
Series 2005-11, BARRETT DAFFIN FRAPPIER  
TREDER & WEISS LLP, GRACE EVERITT,  
DOES 1-10

Defendant.

On March 29, 2012, the Court stayed this action pending the bankruptcy trustee's abandonment of plaintiff's claim. *See* Dkt. 47. The bankruptcy case was re-opened on January 10, 2012 to allow plaintiff to file an amended schedule listing the claim, which he did on January 31, 2012. *See In re: Marc Anthony Bencivenga*, Bankruptcy Pet. 11-10829, Dkts. 18-20. On April 9, 2012, the bankruptcy case was closed.

On April 16, 2012, plaintiff filed a “Notice of Closing of Bankruptcy Case, and Request for Hearing Rescheduling.” Dkt. 48. Plaintiff argues that the closing of the bankruptcy case is “a conclusive showing that the trustee for said bankruptcy, Timothy W. Hoffman, has abandoned plaintiff’s claim.” *Id.* However this, without more, is not proof that the trustee has abandoned the claim. Plaintiff is directed to file a statement from the trustee stating that the trustee has abandoned the claim or otherwise provide evidence that the claim has been abandoned. The Court will thereafter lift the stay and reschedule a hearing on U.S. Bank’s motion to dismiss.

## **IT IS SO ORDERED.**

Dated: April 26, 2012

Susan Illston  
SUSAN ILLSTON  
United States District J